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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,588	07/15/2002	Daniel Bois	5310-04500	2551

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EXAMINER

PHAM, LONG

ART UNIT PAPER NUMBER

2814

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,588

Applicant(s)

BOIS ET AL.

Examiner

Long Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11, 13-15 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11, 13-15, and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Claims 21-28 have been withdrawn from consideration.

Rejections and/or objections necessitated by the amendments

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 3, 4, 5, 6, 7, 11, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assaderaphi et al. (US patent 6,686,629) in combination with Schubert et al. (US patent 4,885,618).

With respect to claim currently amended claim 1 and previously filed claims 2-7, 11, and 13-15, Assaderaphi et al. in combination with Schubert et al. teach the claimed invention. See the contents of office action dated 09/01/05.

Further with respect to currently amended claim 1, Assaderaphi et al. fail to teach the range for the thickness of the channel layer.

However, it would have been obvious to one of ordinary skill in the art of making semiconductor devices to determine the workable or optimal value or range for the thickness for the channel layer through routine experimentation and optimization to obtain optimal or desired device performance because absence of unexpected results and it has been held that it is not inventive to discover the optimum or workable ranges of a result-effective variable within given prior art conditions by routine experimentation. See MPEP 2144.05.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Assaderaphi et al. (US patent 6,686,629) in combination with Schubert et al. (US patent 4,885,618).

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With respect to claim currently amended claim 20, Assaderaphi et al. in combination with Schubert et al. teach the claimed invention. See the contents of office action dated 09/01/05.

Further with respect to currently amended claim 20, Assaderaphi et al. fail to teach the range for the thickness of the channel layer.

However, it would have been obvious to one of ordinary skill in the art of making semiconductor devices to determine the workable or optimal value or range for the thickness for the channel layer through routine experimentation and optimization to obtain optimal or desired device performance because absence of unexpected results and it has been held that it is not inventive to discover the optimum or workable ranges of a result-effective variable within given prior art conditions by routine experimentation. See MPEP 2144.05.

Response to Arguments

Applicant's arguments with respect to claims 1-7, 11, 13-15 and 20 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's arguments in the paragraphs on page 9 of the amendment dated 02/06/06, it is submitted that the applicant has the burden of showing the criticality of the optimizable claimed parameters.

In response to the applicant's arguments regarding claims 3, 6, and 7 on page 9 of the amendment dated 02/06/06, the applicant is directed to the pending rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Long Pham whose telephone number is 571-272-1714. The examiner can normally be reached on Mon-Frid, 10am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Long Pham
Primary Examiner
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